United Nations Convention on the Law of the Sea SPLOS/138

Meeting of States Parties

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Report on budgetary matters for the financial period 2005-2006

Presented by the Registrar

I. Provisional performance report for 2005

1. In June 2004, the fourteenth Meeting of States Parties approved a budgetary amount of €15,506,500 for the financial period 2005-2006 (see SPLOS/117, para. 1). In addition to those appropriations, in June 2005 the fifteenth Meeting of States Parties authorized the International Tribunal for the Law of the Sea to finance overexpenditures due to: (a) the adjustment of remuneration of judges (effective 1 January 2005); (b) the increase in the daily subsistence allowance (DSA) applicable to Hamburg; and (c) the application of the floor/ceiling mechanism to the annual and special allowances of judges (effective 1 July 2005), by using savings of US$ 500,000 from the financial period 2002, up to an amount of €378,500, and savings from the financial period 2004, up to an amount of €150,000. In addition, the fifteenth Meeting further approved a supplementary budget of €351,899 for the financial period 2005-2006 (see SPLOS/132, paras. 1-3, and SPLOS/133, para. 2) (see paras. 5 and 6 below).

2. As a result, the additional appropriations, totalling up to €880,399, were approved for the financial period 2005-2006. From the additional appropriations, an amount of €312,684 was allotted for 2005.

3. The provisional performance report for 2005 is attached as an annex. It should be noted that this report is provisional as it concerns the 2005-2006 biennium budget.

4. As shown in the provisional performance report for 2005, the total expenditure for 2005 stands provisionally at €6,434,245. This represents 84.01 per cent of the amount of appropriations approved for 2005 (€7,659,198). The underperformance can be explained by the fact that no new cases were submitted during 2005, and therefore substantial savings, amounting to €1,018,477, were achieved in "Case-related costs". In addition there were savings with respect to staff costs amounting to €254,441, owing to vacant positions in the Registry during the period in question.

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It may be noted that, if the case-related costs (€1,045,788) are excluded, the performance rate for other costs would reach 96.88 per cent.

II. Report on action taken pursuant to the decisions on budgetary matters for 2005-2006 taken by the fifteenth Meeting of States Parties

A. Introduction

5. The fifteenth Meeting of States Parties decided on 21 June 2005 as follows:

"1. *Decides*, as an interim measure, and pending a decision by States Parties based on a report by the Registrar, taking into account the report requested in paragraph 8 of part III of resolution 59/282, to approve an adjustment of the maximum annual remuneration of the members of the Tribunal to the level of the emoluments of the members of the International Court of Justice established in General Assembly resolution 59/282, that is, $170,080 United States dollars, effective 1 January 2005, as well as an adjustment of pensions in payment in accordance with article 7, paragraph 2, of the pension regulations for members of the International Tribunal for the Law of the Sea, effective 1 January 2005;

"2. *Also decides*, in the event that the Tribunal is unable to meet expenditures for 2005-2006 from approved appropriations made in the budget line 'Special allowances of judges' under part I, to authorize the Registrar to incur expenditures to the extent that the shortfall in appropriation results from an increase in daily subsistence allowance as fixed by the United Nations;

"3. *Authorizes* the Tribunal to finance overexpenditures referred to in paragraphs 1 and 2 above by transfers between appropriation sections as far as possible and by using part of the savings of $500,000 United States dollars from the financial period 2002, up to an amount of €115,500 euros;

"4. *Decides* that the Registrar shall report to the Meeting of States Parties on all relevant implications concerning any action taken pursuant to the present decision." (SPLOS/132)

6. The fifteenth Meeting of States Parties also decided on 21 June 2005 as follows:

"1. *Decides* to apply to the annual allowance and the special allowance of the members of the Tribunal, effective 1 July 2005, the same floor/ceiling mechanism as is applicable to the emoluments of the members of the Court, on the understanding that any adjustment made to the mechanism in respect of the Court would equally apply to the mechanism in respect of the Tribunal;

"2. *Also decides* to authorize the Tribunal to finance overexpenditures due to the application of the floor/ceiling mechanism by using part of the savings from the financial period 2002 up to an amount of 263,000 euros and those from the financial period 2004 up to an amount of 150,000 euros;

"3. *Approves* a supplementary budget of 351,899 euros for the financial period 2005-2006;

"4. *Decides* that the Registrar shall report to the sixteenth Meeting of States Parties on any action taken pursuant to the present decision." (SPLOS/133)

B. Overexpenditures in 2005

7. On the basis of the approved initial budget for the financial period 2005-2006, the following budget lines under section 1, "Remuneration of judges", in part I, "Recurrent expenditure", were overrun in 2005:

(a) Annual allowances. There was an overrun amounting to €189,253 resulting from the adjustment of remuneration of judges and the application of the floor/ceiling mechanism to the annual allowance of judges;

(b) Special allowances. There was an overrun amounting to €8,471 resulting from the application of the floor/ceiling mechanism to the special allowance of judges and an increase in the DSA applicable to Hamburg.

8. Notwithstanding the increases due to the adjustment of the remuneration of judges and the application of the floor/ceiling mechanism, there was no overexpenditure in budget lines relating to the judges' pension scheme under part I, "Recurrent expenditure", and special allowances of judges and compensation to judges ad hoc under part III, "Case-related costs". This may be explained by the fact that: (a) two judges were re-elected in June 2005, while provisions were made in the budget approved in 2004 for additional pension payments with respect to the seven judges whose terms of office came to an end on 30 September 2005; and (b) no new cases were submitted to the Tribunal in 2005.

C. Budget for 2006

9. From the additional appropriation of €880,399 approved for the financial period 2005-2006 (see para. 2 above), an amount of €567,715 was allocated for 2006. As a result, the initial 2006 budget of €7,847,302 was brought to €8,415,017. The additional appropriation of €567,715 was apportioned to the relevant budget lines as follows:

Part I
Recurrent expenditure

Section 1
Remuneration of judges

	Initial budget	*Additional appropriation*	*Revised budget*
Annual allowances	998 301	352 465	1 350 766
Special allowances	310 295	61 610	371 905
Pension scheme	350 792	3 250	354 042
Subtotal	**1 659 388**	**417 325**	**2 076 713**

Part III
Case-related costs

Section 9
Judges

	Initial budget	*Additional appropriation*	*Revised budget*
Special allowances	611 287	140 474	751 761
Compensation to judges ad hoc	36 440	9 916	51 976
Subtotal	**647 727**	**150 390**	**803 737**
Total	**2 307 115**	**567 715**	**2 880 450**

D. Action to be taken by the Tribunal

2005

10. On the basis of the provisional performance for 2005, overexpenditures incurred in 2005 in respect of two budget lines — "Annual allowances" and "Special allowances", under section 1, "Remuneration of Judges" — amounted to €197,724 (see para. 7 above). Subject to final expenditure figures as at 31 December 2006, they could be financed as far as possible by transfer between sections, in accordance with the decisions taken by the fifteenth Meeting of States Parties in June 2005 (see paras. 5 and 6 above). A final decision in that respect will be taken by the Tribunal after the end of the financial period. In the light of the provisional performance 2005, the Tribunal decided that, subject to approval by the Meeting of States Parties, an amount of €312,684 from the 2002 savings corresponding to the additional appropriations for 2005 (see annex) would be surrendered and deducted from the assessed contributions of the States parties in accordance with regulation 4.5 of the Financial Regulations.

2006

11. The projected increase in budgetary appropriations for 2006 will be financed in accordance with the decisions of the Meeting of States Parties (see paras. 5 and 6 above). A final decision will also be taken by the Tribunal after the end of the financial period.

III. Report on action taken pursuant to the Financial Regulations of the Tribunal

A. Investment of funds of the Tribunal

12. In respect of the investment of funds of the Tribunal, regulation 9 of the Financial Regulations of the Tribunal stipulates the following:

"9.1 The Registrar may make prudent short-term investments of moneys not needed for immediate requirements and shall inform the Tribunal and the Meeting of States Parties periodically of such investments.

"9.2 Income derived from investments shall be credited to miscellaneous income or as provided in the rules relating to each fund or account."

13. During the financial year 2005, the Tribunal's funds were kept in Chase Bank and Deutsche Bank in United States dollars and euros as short-term investments, which "are investments made for less than 12 months" according to rule 109.1 of the Financial Rules of the Tribunal. The funds yielded interest which amounted to US$ 22,430.98 and €20,382.73 during 2005. That earned interest has been credited as miscellaneous income, in accordance with regulation 9.2 of the Financial Regulations of the Tribunal.

B. The Korea International Cooperation Agency trust fund

14. The Korea International Cooperation Agency (KOICA) offered to provide a grant of US$ 150,000 pursuant to a memorandum of understanding signed between the Tribunal and KOICA on 9 March 2004. Its object is to finance the expenses of participants from developing countries in the Tribunal's internship programme.

15. In accordance with regulation 6.5 of the Financial Regulations of the Tribunal, a trust fund was subsequently established and a special euro bank account entitled "KOICA Grant" was set up with Deutsche Bank for this purpose. When the funds, amounting to US$ 150,000, were received from KOICA in March 2004, they were converted into €120,600 on the basis of a US dollar/euro exchange rate of 0.804 fixed by the United Nations for March 2004.

16. The performance of the KOICA Grant as of 31 December 2005, which must be reported to the Meeting of States Parties in accordance with regulation 6.5 of the Financial Regulations of the Tribunal, is as follows:

KOICA grant performance (euros)

Opening balance	120 600.00
Gain on exchange	2 431.50
Interest income	729.92
Total	**123 761.42**
Expenditure on participants and authorized activity	70 113.44
Bank charges	338.40
Bank balance	**53 309.58**
Unliquidated obligations	8 250.00
Available balance	**45 059.58**

Annex

Provisional performance report for 2005

	Part / Section	Objects of expenditure	Approved budget 2005	Disbursements (as at 31/12/2005)	Unliquidated obligations (as at 31/12/2005)	Total expenditure	Balance after projections	Total exp./ app. budget (percentage)	Additional appropriation*	
1	I	RECURRENT EXPENDITURE								1
2	1	Remuneration of judges	1 649 401			1 819 783	-170 382			2
3		Annual allowances	998 301	1 187 554		1 187 554	-189 253	118.96	176 233	3
4		Special allowances	310 295	318 766		318 766	-8 471	102.73	40 722	4
5		Travel of judges to meetings	122 340	119 789		119 789	2 551	97.91		5
6		Judges' pension scheme	128 545	114 058		114 058	14 487	88.73	3 250	6
7		Common costs	89 920	29 580	50 036	79 616	10 304	88.54		7
8	2	Staff costs	3 313 647			3 059 206	254 441			8
9		Established posts	2 178 998	2 080 677	16 565	2 097 242	81 756	96.25		9
10		Common staff costs	896 440	684 202	89 450	773 652	122 788	86.30		10
11		Reimbursement of national taxes	15 000	0	15 000	15 000	0	100.00		11
12		Overtime	19 503	14 084	556	14 640	4 863	75.07		12
13		Temporary assistance for meetings	106 700	74 503	52	74 555	32 145	69.87		13
14		General temporary assistance	64 068	58 832	2 979	61 811	2 257	96.48		14
15		Training	32 938	10 155	12 151	22 306	10 632	67.72		15
16	3	Representation allowance	6 110	6 109		6 109	1	99.98		16
17	4	Official travel	85 522	77 290	5 569	82 859	2 663	96.89		17
18	5	Hospitality	6 600	5 588	713	6 301	299	95.47		18
19	6	Operating expenditures	1 319 680			1 226 717	92 963			19
20		Maintenance of premises (incl. facility management and contractual services)	970 539	728 250	191 193	919 443	51 096	94.74		20
21		Rental and maintenance of equipment	165 213	137 981	26 313	164 294	919	99.44		21
22		Communications	91 340	70 642	10 923	81 565	9 775	89.30		22
23		Misc. services and charges (incl. bank charges)	18 822	14 651		14 651	4 171	77.84		23
24		Supplies and materials	57 366	28 506	11 258	39 764	17 602	69.32		24
25		Special services (external audit)	16 400	0	7 000	7 000	9 400	42.68		25

	Part Section	Objects of expenditure	Approved budget 2005	Disbursements (as at 31/12/2005)	Unliquidated obligations (as at 31/12/2005)	Total expenditure	Balance after transactions	Total exp./ app. budget (percentage)	Additional appropriation*	
26	7	Library and related costs	157 450			137 210	20 240	87.15		26
27		Library: procurement of books and publications	112 950	74 939	36 785	111 724	1 226	98.91		27
28		External printing and binding	44 500	13 538	11 948	25 486	19 014	57.27		28
29										29
30	II	NON-RECURRENT EXPENDITURE								30
31	8	Furniture and equipment								31
32		Purchase of equipment	75 000	22 464	46 285	68 749	6 251	91.67		32
33										33
34	III	CASE-RELATED COSTS	1 045 788			27 311	1 018 477	2.61		34
35	9	Judges	776 655			25 188	751 467	3.24		35
36		Special allowances	611 287	0	10 381	10 381	600 906	1.70	86 859	36
37		Compensation to judges ad hoc	36 440	0	1 707	1 707	34 733	4.68	5 620	37
38		Travel to meetings, including judges ad hoc	128 928	0	13 100	13 100	115 828	10.16		38
39	10	Staff costs	269 133			2 123	267 010	0.79		39
40		Temporary assistance for meetings	246 610	0	1 685	1 685	244 925	0.68		40
41		Overtime	22 523	0	438	438	22 085	1.94		41
42	11	Miscellaneous	0	0		0	0			42
43										43
44	IV	WORKING CAPITAL FUND	0	0		0	0	0.00		44
45										45
46	**IV**	**Total**	**7 659 198**	**5 872 158**	**562 087**	**6 434 245**	**1 224 953**	**84.01**	**312 684**	**46**

* In accordance with SPLOS decisions 132 and 133.

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Establishment of staff pension committee

Note by the International Tribunal for the Law of the Sea

I. Introduction

1. The International Tribunal for the Law of the Sea has been a member of the United Nations Joint Staff Pension Fund since 1 January 1997. As of that date, the Tribunal accepted the regulations, rules and pension adjustment system of the Fund, as they were in force on that date and as they may be amended from time to time thereafter.[1] Article 4 (a) of the regulations provides that:

> "The Fund shall be administered by the United Nations Joint Staff Pension Board, a staff pension committee for each member organization, and a secretariat to the Board and to each such committee."

2. A staff pension committee has not yet been established within the Tribunal. The Meeting of States Parties may wish to consider the necessity for establishing such a committee within the Tribunal. In considering this proposal, the Meeting may wish to take into account the factors set out below.

II. Functions of the staff pension committee

3. Under the regulations and rules of the Fund, the staff pension committee in each member organization has been accorded or delegated authority by the Joint Staff Pension Board to deal with the following matters (see articles 4 (c) and 7 of the regulations):

(a) Making substantive determinations. This function includes granting benefits under the Fund's regulations to the Fund's participants and beneficiaries;

[1] Agreement between the United Nations Joint Staff Pension Board and the International Tribunal for the Law of the Sea as to the conditions governing the admission of the Tribunal to membership in the Fund, article 1. The proposals in the present note relate solely to the Fund, whose participants are the staff members of the Registry, and not to the separate pension scheme for the members of the Tribunal that was established by the ninth Meeting of States Parties.

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and applying and interpreting the Fund's regulations and rules in respect of the Fund's participants and beneficiaries. In this regard, the staff pension committee is charged with determining incapacity for the purpose of disability benefits under article 33 (a) and (b) of the regulations (see articles H.1 (a), H.4, H.6 of the administrative rules of the Fund), and determining incapacity of a child of a participant for the purpose of benefits under article 36 (b) and (c) of the regulations (see articles H.1 (a), H.8, H.10 of the administrative rules). Determinations made by a staff pension committee are subject to various review and appeal procedures as set out in the regulations and administrative rules of the Fund (see articles K.1, K.5-7 and K.8 of the administrative rules);

(b) Representative function. This function includes formulating proposed amendments to the regulations and rules of the Fund for consideration by the Joint Staff Pension Board and subsequent submission to the General Assembly of the United Nations; and designating representatives to participate in the regular and special sessions of the Joint Staff Pension Board and in the meetings of its subsidiary organs.

4. In addition, the staff pension committees of each member organization appoint, as provided for in the regulations and rules of the Fund, the members of the Joint Staff Pension Board.

III. Rules of procedure of the Fund

5. Section C of the rules of procedure of the Fund sets out some rules of procedure for staff pension committees. For example, rule C.1 of the rules of procedure provides that each staff pension committee shall hold at least one regular meeting each year. Special meetings of the committee shall be held either at the decision of the Chairman, at the request of the competent authority or at the request in writing of three members of the committee. In other respects, the committee may develop its own procedures, subject to the Fund's regulations and rules of procedure (rule C.6).

IV. Establishment of the staff pension committee

6. Article 6 (c) of the Regulations of the Fund provides that the staff pension committees of the other member organizations shall consist of members and alternate members chosen by the body of the organization corresponding to the General Assembly, its chief administrative officer, and its participants in service, in such a manner that the number representing each shall be equal and, in the case of the participants, that the members and alternate members shall themselves be participants in the service of the organization. Each member organization shall make rules for the election or appointment of the members and alternate members of its staff pension committee.

7. Article 6 (c) of the Regulations establishes the tripartite nature of the staff pension committee. The committee shall be composed of an equal number of members representing the governing body/body of the organization corresponding to the General Assembly, the chief administrative officer, and the participants in the service of the organization. Given the size of the Tribunal, the committee could

comprise three members and three alternates, one member and one alternate to be chosen by each of the three bodies/parties, as follows:

(a) Meeting of States Parties (the body corresponding to the General Assembly);

(b) Chief Administrative Officer (Registrar);

(c) Staff members (being the participants in the Fund).

8. The member and alternate member nominated by the first body (Meeting of States Parties) are normally drawn from the membership of that body, although article 6 (c) of the regulations provides no restriction as to who might be chosen. It is suggested that the Meeting of States Parties nominate a member and an alternate member from the consular corps in Hamburg or the diplomatic corps in Berlin in order to avoid delaying the local meetings of the staff pension committee (which must meet at least once a year) and incurring unnecessary travel expenses. The member and alternate member could be designated by name; alternatively, the Meeting of States Parties could nominate States with a permanent diplomatic or consular presence in Berlin or Hamburg as member and alternate member of the committee. The nominated States could then appoint local diplomats as their representatives on the staff pension committee.[2]

V. Proposed decision by the Meeting of States Parties

9. The Meeting of States Parties may wish to establish a staff pension committee and to constitute the committee as follows:

(a) One member and one alternate member to be chosen by the Meeting of States Parties for a term of office of two years;[3]

(b) One member and one alternate member to be appointed by the Registrar for a term of office of two years;

(c) One member and one alternate member, who shall be participants in the Fund and staff members of the Registry, to be elected by the staff members who are participants in the Fund for a term of office of two years.

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[2] This approach has been followed by a number of organizations, including the United Nations Educational, Scientific and Cultural Organization (UNESCO). The General Conference of UNESCO appoints Member States as members and alternate members of its staff pension committee. These States in turn designate their representatives on the committee. The General Conference generally nominates Member States that have permanent delegations to UNESCO in Paris (see United Nations Joint Staff Pension Fund and UNESCO Staff Pension Committee, 32 C/44, para. 21; see also 32 C/Resolution 72 adopted at the thirty-second session of the General Conference, Paris, October 2003). The International Criminal Court (ICC) has established its staff pension committee. The Assembly of States Parties decided at its third session that the Staff Pension Committee of ICC would be composed of two members and two alternate members appointed by the Bureau of the Assembly of States Parties; two members and two alternate members appointed by the Registrar; and two members and two alternate members who would themselves be staff members of ICC and participants in the Fund to be elected by secret ballot by the staff who were participants in the Fund, each for a term of two years (see resolution ICC-ASP/3/Res.3, adopted at the 6th plenary meeting, on 10 September 2004, para. 29).

[3] The terms of office of staff pension committee members in other organizations vary from two to four years.

10. The Meeting of States Parties may also wish to consider the following options for choosing one member and one alternate member of the staff pension committee:

(a) The member and alternate member could be nominated from among members of the diplomatic or consular corps in Berlin or Hamburg; in this instance, the member and alternate member could be designated by name;

(b) Alternatively, the Meeting of States Parties could nominate States with a permanent diplomatic or consular presence in Berlin or Hamburg as member and alternate member of the committee; the nominated States could then appoint local diplomats as their representatives on the staff pension committee.